

(1984) 11 P&H CK 0018

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 472 of 1984

Surinder Kumar

APPELLANT

Vs

Inspector General of Prisons, Punjab and others

RESPONDENT

Date of Decision : 28-11-1984

Acts Referred:

Citation : (1984) 11 P&H CK 0018

Hon'ble Judges : Pritpal Singh, J

Advocate : D.S. Keer, V.K. Jindal, Advocates for appearing Parties

Judgement

Pritpal Singh, J.

1. Surinder Kumar has filed this habeas corpus petition praying that a direction be issued to the respondents to grant the detenu Rajinder Kumar parole/furlough under the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter called `the Act')
2. The detenu is undergoing life imprisonment. The return filed on behalf of the respondents indicates that the benefit of the Act is being withheld from him on account of two jail punishments awarded to him, the first on August 2, 1983 and the second on July 23, 1984.
3. The contention on behalf of the detenu is that the aforesaid punishments are illegal not being in conformity with the principles of natural justice. It is further contended that these punishments are unsustainable because of the lack of judicial appraisal by the Sessions Judge.
4. Admittedly, the punishment dated 2.8.1983 has not so far been judicially appraised by the Sessions Judge. It is mentioned in the return filed by the respondents that the confirmation of the Sessions Judge regarding this punishment has been recently sought by the Superintendent, Central Jail, Ludhiana, Vide his Memo No. 6190 dated 17.11.1983. So far as the second punishment dated 23.7.1984 is concerned, it is asserted that the confirmation of

the Sessions Judge has been received on October 18, 1984. It is not denied that the papers were sent to the Sessions Judge for judicial appraisal on September 21, 1984, that is about two months after the awarding of the punishment.

5. On this subject a number of mandatory directions were issued by the Supreme Court in *Sunil Batra v. Delhi Administration*, A.I.R. 1980 Supreme Court 1579. One of the directions issued in this case is that no punishment or denial of privileges and amenities shall be imposed upon a prisoner without judicial appraisal of the Sessions Judge and where such intimation, on account of emergency, is difficult, such information shall be given to the Sessions Judge within two days of the action. These instructions were repeated by the Supreme Court in *Rakesh Kaushim v. Superintendent, Central Jail, New Delhi*, 1980 Supreme Court Cases (Cri) 83 and it was observed that the action oriented conclusions in the case of *Sunil Batra* (Supra) are binding upon the State.

6. In the instant case it is manifest that the aforesaid instructions of the Supreme Court which been held to be mandatory in nature have been violated. In one case intimation was sent to the Sessions Judge about two months after the awarding of the punishment and in the second case the intimation was sent more than three months after the punishment was awarded.

7. Consequently, the aforementioned two punishments being in violation of the mandatory instruction of the Supreme Court, are quashed and the respondents are directed to consider the grant of parole/furlough to the detenu under the Act afresh in accordance with law.

JUDGMENT accordingly.